

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
CENTRAL DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. RAYMOND SAENZ, Defendant.	3:10-CR-30027-RAL OPINION AND ORDER DENYING MOTION TO RECONSIDER
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On May 1, 2020, Raymond Saenz (Saenz) filed a motion for compassionate release. Doc. 184. On July 29, 2020, this Court issued an opinion and order denying Saenz's motion. Doc. 192. Saenz appealed this Court's opinion and order to the United States Court of Appeals for the Eighth Circuit, and the Eighth Circuit summarily affirmed this Court's decision. Docs. 193, 196. About three months after the Eighth Circuit's judgment, Saenz filed an "emergency" motion for reconsideration with this Court. Doc. 198. The United States has responded in opposition. Doc. 201.

Saenz does not contest this Court's conclusion that Saenz is able to manage his medical conditions while incarcerated, nor does he challenge this Court's conclusion that review of the § 3553(a) factors does not weigh in favor of his release. Rather, Saenz asks this Court to reconsider its ruling solely because the number of positive COVID-19 cases has increased at the Federal Correctional Facility Fort Dix (FCI Fort Dix) since this Court issued its opinion and order at the end of July. Doc. 184. At the time this Court issued its ruling in July, FCI Fort Dix had 15 active inmate infections of COVID-19 and zero active COVID-19 cases among the facility's staff; 25 inmates and five staff members had recovered from the illness, and the facility had reported no

deaths. Doc. 192 at 4. As it stands today, FCI Fort Dix currently has 16 active inmate infections of COVID-19 and 39 active COVID-19 cases among the facility's staff; 354 inmates and six staff have recovered from the illness, and the facility still has reported no deaths. See COVID-19, Coronavirus, Federal Bureau of Prisons <https://www.bop.gov/coronavirus/> (last visited Dec. 14, 2020).

While it is true that the number of active cases and the number of those that have recovered from the illness have increased since July, the fact remains that the facility has reported no deaths. The BOP has taken precautions to protect Saenz and his fellow inmates. See BOP Implementing Modified Operations, Federal Bureau of Prisons, https://www.bop.gov/coronavirus/covid19_status.jsp (last visited Dec. 14, 2020).

In any event, the CDC has identified only one of Saenz's medical conditions—obesity—as putting Saenz at a higher risk of suffering severe complications if he contracts the disease. See People with Certain Medical Conditions, Centers for Disease Control and Prevention, https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fneed-extra-precautions%2Fgroups-at-higher-risk.html (last visited Dec. 14, 2020). As this Court pointed out in its July opinion and order, Doc. 192 at 11, the extent of that risk is still unknown.

In reaching its decision on Saenz's original motion for compassionate release, this Court carefully considered the applicable law and how it applied to Saenz's case. This Court ultimately determined that compassionate release was not warranted, and Saenz has not presented any evidence that justifies a different outcome. For the reasons stated herein as well as those reasons

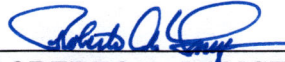
previously articulated by the Court, see Doc. 192, this Court denies Saenz's motion for reconsideration, Doc. 184.

Therefore, it is hereby

ORDERED that Saenz's Motion for Reconsideration, Doc. 198, is denied.

DATED this 15th day of December, 2020.

BY THE COURT:



ROBERTO A. LANGE
CHIEF JUDGE